

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0284-01
Bill No.: HB 37
Subject: Drugs and Controlled Substances; Elderly Pharmacy
Type: Original
Date: February 11, 2003

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|--------------------------------------|------------|------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| General Revenue | (\$23,793,978 to unknown) | \$0 | \$0 |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | (\$23,793,978 to Unknown) | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| | | | |
| | | | |
| Total Estimated Net Effect on Other State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 14 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2004 | FY 2005 | FY 2006 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** assume this proposal would not fiscally impact their agency.

Officials from the **Department of Social Services (DOS)** assume this program is intended to be cost neutral to taxpayers due to the costs being borne entirely by the participants. However, DOS estimates a 6-month lag in collection of rebates which will be paid out of GR in FY 04. All rebates collected by the DOS should cover all administrative costs in years FY 05 and FY 06.

Officials from the **Department of Social Services - Division of Family Services (DFS)** state that the DFS has an established mechanism to determine program eligibility throughout the State. DFS shall enroll Missouri Rx card participants using a simple enrollment procedure.

The DFS states the most recent data available shows forty-seven percent (47%) of the Medicare beneficiaries did not have prescription drug coverage in 1996. (Department of Health and Human Services - Prescription Drug Coverage Report, Chapter 1). According to the 2000 U.S. Census, the percentage of single households in the 18-64 age group is 46% and in the 65+ age group is 57%. The percentage of married couple households in the 18-64 age group is 54% and

ASSUMPTION (continued)

in the 65+ age group is 43%.

The DFS states take-up rate is the average between the Medicaid take-up rate and the QMB take-up rate. Households eligible for the Missouri Rx Card Program would not receive the extensive level of benefits as a Medicaid recipient and would not have the income and resource restrictions of QMB.

$[75\% \text{ (Medicaid take-up rate)} + 26.3\% \text{ (QMB take-up rate)}] \div 2 = 50.65\% \text{ take-up rate}$

Uninsured Households Age 18-64 with Income < 300% FPL

Children under age 18 with income less than 300% of the federal poverty level (FPL) may be eligible for Medicaid under CHIP and therefore are not included in these projections.

As of 2000, Missouri had a total uninsured population between age 18 and 64 with income less than 300% of the federal poverty level of 289,134. (Source: Lewin Group - Table1: Number of Uninsured Persons By Age, Gender and Family Poverty Level In Missouri in 2000).

| | |
|----------------|--|
| 289,134 | Uninsured individuals age 18-64 with income < 300% FPL |
| 133,002 | 46% Single Households |
| + 78,066 | 54% Couple Households |
| 211,068 | Total Households Uninsured under 300% of Poverty (age 18 to 64) |
| x 50.65% | Take-Up Rate |
| 106,906 | Total eligible households 18-64 with income < 300% FPL |

Medicare Households Age 18-64

Missouri has a total non-institutionalized population age 18 to 64 of 129,659 that are Medicare eligible. (U.S. Census Bureau). Of this population, 75,000 individuals are receiving Medicaid. (DSS Research & Evaluation).

ASSUMPTION (continued)

| | |
|----------|--|
| 129,659 | Non-Institutionalized Medicare Eligible in Missouri age 18 - 64 |
| - 75,000 | Non-Institutionalized Medicare population age 18-64 receiving Medicaid |
| 54,659 | Potentially eligible population in Missouri age 18-64 |
| x 47% | % without Prescription Drug Coverage |
| 25,690 | Medicare Population age 18-64 without drug coverage |
| <hr/> | |
| 11,817 | 46% Single Households |
| 6,936 | 54% Couple Households |
| 18,753 | Total Eligible Medicare Households Age 18-64 |
| x 50.65% | Take-Up Rate |
| 9,498 | Total Medicare Households Age 18-64 eligible for the Missouri Rx Card Program |

Medicare Households Age 65+

Missouri has a total non-institutionalized population age 65+ of 715,963 that are Medicare eligible. (U.S. Census Bureau - Table QT 02) Of this population 50,428 individuals are receiving Medicaid. (DSS Research & Evaluation)

DFS anticipates individuals currently receiving coverage under the Senior Rx Program would continue due to the higher level of benefits. The Department of Health and Senior Services currently has 22,000 seniors enrolled in the Senior Rx Program. This population was included in the 47% of Medicare beneficiaries without prescription drug coverage when the study was done in 1996 and therefore will be excluded from the potentially eligible population.

| | |
|----------|--|
| 715,963 | Non-Institutionalized Medicare Eligible in Missouri age 65+ |
| - 50,428 | Non-Institutionalized Medicare population age 65+ receiving Medicaid |
| 665,535 | Potentially eligible population in Missouri age 65+ |
| | |
| 665,535 | Potentially eligible population in Missouri age 65+ |
| x 47% | % without Prescription Drug Coverage |
| 312,801 | Medicare Population age 65+ without drug coverage |
| | |
| 312,801 | Medicare Population age 65+ without drug coverage |
| - 22,000 | Individuals participating in the Senior Rx Program |
| 290,801 | Total Medicare recipients eligible for the Missouri Rx Card Program |

ASSUMPTION (continued)

| | |
|-----------------|--|
| 165,757 | 57% Single Households |
| <u>62,522</u> | 43% Couple Households |
| 228,279 | Total Eligible Medicare Households Age 65+ |
| <u>x 50.65%</u> | Take-Up Rate |
| 115,623 | Total Medicare Households Age 65+ eligible for the Missouri Rx Card Program |

| | |
|----------------|---|
| 106,906 | Total eligible households 18-64 with income < 300% FPL |
| 9,498 | Total Medicare Households Age 18-64 eligible for the MO Rx Card Program |
| <u>115,623</u> | Total Medicare Households Age 65+ eligible for the Missouri Rx Card Program |
| 232,027 | Total Annual Household Population |

Staffing:

DFS projects approximately 232,027 eligible households for the Missouri Rx Card Program. DFS assumes they will take applications beginning July, 2003 and the card will be effective January 1, 2004. An average adult Medicaid caseload is 300 cases. Due to the simplified determination process, a caseload of 600 is anticipated.

ASSUMPTION (continued)

| FY 2004 | Month | Caseload (Phase In) | Required Caseworkers |
|------------------------------|--------------|----------------------------|-----------------------------|
| | Jul-03 | 19,336 | 32 |
| | Aug-03 | 38,671 | 64 |
| | Sep-03 | 58,007 | 97 |
| | Oct-03 | 77,342 | 129 |
| | Nov-03 | 96,678 | 161 |
| | Dec-03 | 116,014 | 193 |
| | Jan-04 | 135,349 | 226 |
| | Feb-04 | 154,685 | 258 |
| | Mar-04 | 174,020 | 290 |
| | Apr-04 | 193,356 | 322 |
| | May-04 | 212,691 | 354 |
| | Jun-04 | 232,027 | 387 |
| Average Staff FY 2004 | | | 209 |

DFS assumes 209 caseworkers will be needed and 21 Supervisor I's ($209 \text{ caseworkers} \div 10 \text{ caseworkers/supervisor} = 20.9$) will be needed to support the 209 new Caseworker FTEs in FY 2004.

DFS assumes 2 Supervisor III's ($21 \text{ Supervisor I} \div 10 \text{ Supervisor I's/Supervisor III} = 2.1$) will be needed to support the 21 new Supervisor Is in FY 2004. Annual salary for an IM Supervisor III is \$39,048.

ASSUMPTION (continued)

DFS assumes 58 Clerk Typist II ($232 \div 3.97 = 58.4$) are needed to support 232 ($209 + 21 + 2$) professional staff in FY 2004. Annual salary for a Clerk Typist II is \$20,472.

DFS estimates total salary and fringe benefits to be \$11,566,958 for FY 2004.

Oversight has, for fiscal note purposes only, changed the starting salary for Income Maintenance Worker, Supervisors and Clerk Typists to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight estimates total salary and fringe benefits for FY 2004 to be \$8,104,935.

Equipment and Expenses (E & E)

DFS estimates one time costs for FY 2004 to include office equipment (includes systems furniture, lateral file, chair, side chair, calculator, PC, PC software, desktop printer, phone installation, and data line to be \$2,624,080 ($\$8,785 \times 290 = \$2,547,650$).

DFS estimates on-going costs for FY2004 and beyond to include office space, supplies, travel expense, etc to be \$1,387,360. **Oversight** assumes office space will not be needed for all employees (some DFS offices will have space for added workers) and on-going costs will be \$906,694.

The Division of Family Services anticipates the total cost for outreach not to exceed \$100,000 annually. Funds will cover the cost of materials provided to pharmaceutical vendors, health clinic, physicians' offices and direct mailings to potential clients.

Officials from the **Department of Social Services - Division of Medical Services (DMS)** state that the proposed legislation states that DMS shall contract with wholesalers and pharmacies to deliver the discounted prices to the participants.

Section 208.587.5 states that department shall establish simple enrollment procedures and implement outreach efforts. DMS assumes an enrollment process could (1) be similar to the Missouri SeniorRx program which uses a contractor for enrollment or (2) could be done by the Division of Family Services (DFS) staff similar to the MC+ for Kids enrollment. Section 208.589 states that DMS shall negotiate discounts from drug manufacturers and labelers. DMS assumes that these prices are meant to be used as pricing indexes rather than mandates to

ASSUMPTION (continued)

do, for example, supplemental rebates in the Medicaid program.

DMS states section 208.589.3 (3) requires the department to release to the public the names of the manufacturers not participating in the program. DMS assumes posting these names on its website would meet this requirement.

Section 208.591.2 states that the retail pharmacies shall verify to DMS the amounts charged to the Missouri Rx Card program and utilization data. DMS assumes that the pharmacy would submit a Point-of-Service (POS) claim to DMS and DMS would respond with the amount that would be paid by DMS.

Sections 208.591.3 states that wholesalers and pharmacies shall be paid in advance and shall be reimbursed on a weekly basis. The requirement that wholesalers and pharmacies are reimbursed on a weekly basis is not the norm for the industry and would add an unknown cost to the administration of the program. The industry standard is to reimburse pharmacies twice a week. If required to do this, DMS would have cost unknown >\$100,000 due to system changes needed to allow prepayment or weekly payment.

Section 208.591.4 states that DMS may require wholesalers and pharmacies to segregate drugs under this program from other inventory. DMS is unaware of any other program that has this requirement and assumes that this would add an unknown cost to the program and would also limit participation from wholesalers/pharmacies.

Section 208.593 allows for the hiring of an independent auditor, at DMS's expense, if there is a dispute over the amount of the rebate. This section also allows for a hearing if the rebate or interest is not mutually agreed to by the manufacturer and the Department. DMS assumes an administrative cost >\$100,000 to meet these requirements

DMS notes that there is a potential for court challenges and is concerned with the uncertainty of rebate authority, especially when legislation is tied to the Medicaid. Even though the language states that DMS shall deduct a reasonable administrative charge from the discounts, this cannot be done in FY 2004 due to the average 6 month lag in rebates received.

Since the proposed legislation states that the Missouri Rx card shall provide participants a discount approximately equal to the amount of drug rebate minus an amount to cover administrative costs, DMS assumes the net fiscal impact to DMS will be a zero fiscal impact, except for startup cost and the lag in rebate collection.

ASSUMPTION (continued)

The number of participants are estimated at 232,027 as noted by DFS.

DMS assumes enrollment and outreach would be done by DFS and did not include any cost above DFS's in this fiscal note for enrollment and outreach.

DMS estimated the staffing cost of this program at \$380,000. The staffing would include a manager, program specialists, rebate collection staff, and support staff. This is similar to the staffing for the Missouri SenioRx program.

DMS estimates that each enrollee will average 3 prescriptions per month based on the utilization of similar pharmacy programs.

DMS also assumed that there would be cost of \$100,000 for actuarial cost for this program. .

DMS estimates the claims processing cost at \$.60 per claim based on the processing cost of similar pharmacy programs. DMS estimates the number of claims at 1,218,144, which yields a processing cost of \$730,887 (1,218,144*.6).

DMS assumes the level of rebates achieved would be slightly lower than the Medicaid program (\$11.00 per script). For the purposes of this fiscal note, DMS assumed a rebate of \$9.00 per script. This amount multiplied by the number of anticipated claims would yield the amount of funds needed in FY04 due to the rebate lag (1,218,144 *\$9.00 = \$10,963,296).

The effective date of the proposed legislation is January 1, 2004. Since there is approximately a six month lag in the collection of rebates, DMS assumes that there will be startup cost that will not be recovered in fiscal year 04. DMS assumed that these costs would be recovered in FY05 and therefore, there is a zero fiscal impact in FY05. DMS estimates the cost in SFY04 to be as follows:

| | | |
|-------------------------------|----|------------------------|
| Actuarial | \$ | 100,000 |
| Staffing | \$ | 380,000 |
| Claims Processing | \$ | 730,887 |
| Rebate Lag | \$ | 10,963,296 |
| Separation of Inventory | \$ | Unknown > \$100,000 |
| Payment in advance/weekly | \$ | Unknown > \$100,000 |
| Hiring of Independent Auditor | \$ | Unknown > \$100,000 |
| Total | \$ | Unknown > \$12,175,119 |

ASSUMPTION (continued)

DMS assumes that this program is 100% GR. This program is intended to be cost neutral to taxpayers due to the costs being borne entirely by the participants and therefore DMS does not anticipate any federal matching funds.

Officials from the **Department of Social Services - Division of Legal Services** assume an unknown cost related to additional hearings that may be heard related to this proposal.

Officials from the **Department of Social Services - Information Services and Technical Division** assume unknown costs related to printing the Rx cards.

Officials from the **Department of Mental Health (DMH)** state that DMH currently covers the cost of drugs for clients who have no ability to purchase their own drugs when being treated through the Division of Comprehensive and Psychiatric Services. Without knowledge of whether drugs commonly used by DMH clients, i.e. psychotropic drugs, will be covered under this program, or to what extent the coverage for these types of drugs would be, it is difficult to determine the savings. If the Missouri Rx Card Program would cover common drugs used by DMH clients, this program would make it possible for more DMH clients to cover their own drug costs, or at a minimum, would reduce the cost that DMH pays for drugs for Missouri Rx Program-eligible clients. Because of these unknowns it has been determined that the fiscal savings of this proposal needs to be shown as a range. The fiscal savings could be from \$0 to \$233,700 per year based on the assumptions noted below for DMH clients being treated through the Division of Comprehensive and Psychiatric Services.

If psychotropic drugs are not covered by the Missouri Rx program, or if clients do not participate in the program, the fiscal savings would be \$0. The program would have no impact on DMH.

The following assumptions have been made to arrive at the high side of the fiscal savings that could result from this proposal from the DMH prospective. Based on the facts and assumptions noted below, the DMH fiscal savings of this proposed bill would be approximately \$233,700 per year.

1) The FY02 cost of providing drugs to non-Medicaid comprehensive psychiatric services clients is approximately \$15,580,000.

2) All DMH clients who are not covered by Medicaid are assumed to either have a poverty level below 300% or to be covered by Medicare.

3) DMH clients would enroll and be accepted for participation in the Missouri Rx program at an assumed rate of 50%.

ASSUMPTION (continued)

4) Successful negotiations result in rebates for all drugs used for the treatment of DMH clients, and each client is assumed to use the same dollar amount of drugs each year.

5) The average rebate factor is assumed to be 3%, based on review of several of rebate contracts for psychotropic drugs.

There would be no fiscal impact for DMH clients who receive alcohol & drug abuse services. Drug prices for this program have already been negotiated and the assumption is that further negotiation on the scale contemplated in this bill would not result in further savings.

For those DMH clients receiving mental retardation/developmental disability services, there would be minimal to no fiscal impact. The majority of these clients are Medicaid, and therefore would not be eligible to participate in the Missouri Rx program. For the remainder, it is unknown what portion of the clients would be eligible, and would choose to partake in the program. The fiscal savings realized from having prescriptions covered that are currently funded through general revenue for this small portion of the client mix would be minimal or, if any.

Officials from the **Secretary of State's Office (SOS)** state this proposal establishes the Missouri Rx Card program to provide prescription drug discounts to certain uninsured Missouri residents and will result in the Department of Social Services promulgating more rules. These rules would be published in the *Missouri Register* and the *Code of State Regulations*. These rules would be published in the Missouri Register and the Code of State Regulations. Based on experience with other divisions, the rules, regulations and forms issued by the Attorney General's office could require as many as 8 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the Code because cost statements, fiscal notes and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the *Missouri Register* is \$23. The estimated cost of a page in the Code is \$27. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn. SOS estimates total costs to be \$492 [(8 pages x \$27) + (12 pages x \$23)].

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years

| <u>FISCAL IMPACT - State Government</u> | FY 2004 (10 Mo.) | FY 2005 | FY 2006 |
|--|--------------------------------|------------------------|------------------------|
| GENERAL REVENUE | | | |
| <u>Costs - Department of Social Services -</u> | | | |
| <u>Division of Family Services</u> | | | |
| Personal Services (290 FTE) | (\$5,769,869) | \$0 | \$0 |
| Fringe benefits | (\$2,335,066) | \$0 | \$0 |
| Outreach costs | (\$100,000) | \$0 | \$0 |
| Expense and equipment | <u>(\$3,530,774)</u> | <u>\$0</u> | <u>\$0</u> |
| <u>Total Costs - Department of Social</u> | | | |
| <u>Services - Division of Family Services</u> | (\$11,735,709) | \$0 | \$0 |
| <u>Costs - Department of Social Services -</u> | | | |
| <u>Division of Medical Services</u> | | | |
| Program costs | (\$12,175,119 to Unknown) | \$0 | \$0 |
| <u>Costs - Department of Social Services -</u> | | | |
| <u>Information Services and Technical</u> | | | |
| <u>Division</u> | | | |
| Missouri Rx Cards | (Unknown) | \$0 | \$0 |
| <u>Costs - Department of Social Services -</u> | | | |
| <u>Division of Legal Services</u> | | | |
| Hearing costs | (Unknown) | \$0 | \$0 |
| <u>Savings - Department of Mental Health</u> | | | |
| Program savings | \$0 - \$116,850 | <u>\$0 - \$240,711</u> | <u>\$0 - \$247,932</u> |
| ESTIMATED NET EFFECT ON | <u>(\$23,793,978 to</u> | | |
| GENERAL REVENUE | <u>Unknown)</u> | <u>\$0</u> | <u>\$0</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2004 (10 Mo.) | FY 2005 | FY 2006 |
| | <u><u>\$0</u></u> | <u><u>\$0</u></u> | <u><u>\$0</u></u> |

FISCAL IMPACT - Small Business

Small business wholesalers and retail pharmacies who currently participate in the state Medicaid program or who voluntarily choose to participate in the Missouri Rx program would be required to maintain additional records specific to this program to receive reimbursement for discounts or rebates given to card holders.

DESCRIPTION

This proposal establishes the Missouri Rx Card Program as the state pharmaceutical assistance program in the Department of Social Services.

The proposal: (1) Requires the program to provide discounts to eligible participants for drugs covered through a negotiated rebate agreement; (2) Requires the department to use moneys from the negotiated rebates to contract with wholesalers and participating retail pharmacies in order to provide discounted drug prices to eligible participants; (3) Requires the director of the department to calculate drug discounts received by the program on a quarterly basis; (4) Establishes eligibility criteria for participants in the program. Missouri residents who are eligible to participate in Medicare or who have a net family income below 300% of the federal poverty level are eligible to participate in the program; (5) Requires the department to establish enrollment procedures and to implement outreach efforts to raise awareness of the program; (6) Requires the director to negotiate discount prices or rebates for prescription drugs from manufacturers and labelers. A drug manufacturer or labeler that sells prescription drugs in Missouri may voluntarily elect to negotiate supplemental rebates, discount prices, or rebates; (7) Requires the director to initiate a review to determine whether to place a manufacturer's or labeler's products on the prior authorization list for the Medicaid Program. The director can also initiate similar actions involving prior authorizations or formularies for other state-funded or state-operated prescription drug programs; (8) Requires that the names of drug manufacturers and labelers who do not enter into the rebate agreements are public information; (9) Requires the department to establish rules that require participating retail pharmacies to disclose to program participants the amount of savings resulting from the program; (10) Requires participating retail pharmacies to verify to the department the amount charged to program participants and non-participants and to provide to the department utilization data necessary to calculate rebates from manufacturers and labelers. The department is required to protect the confidentiality of the information; (11) Prohibits the department from imposing transaction charges on wholesalers or participating retail pharmacies that submit claims or receive payments under the program; (12) Requires wholesalers and participating retail pharmacies to be paid in advance for program discounts or be reimbursed by the department on a weekly basis; (13) Allows the department to require a wholesaler or a participating retail pharmacy to segregate drugs used in the program

Description (continued)

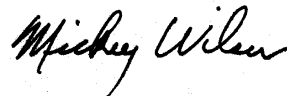
from other drug inventories; (14) Establishes a process for adjudicating disputes or discrepancies in rebate amounts; (15) Requires the department to report enrollment and financial data about the program and supplemental Medicaid rebate savings to the General Assembly by February 1 of each year; (16) Allows the director to combine drug pricing negotiations to maximize drug rebates; (17) Grants rule-making authority to the department to implement the program and allows the department to seek waivers to implement the program; and (18) Requires the program to become effective July 1, 2003. Discounts for participants will begin January 1, 2004.

The proposal contains an emergency clause and will become effective on the later of July 1, 2003, or approval by the Governor.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Health and Senior Services
Department of Mental Health
Secretary of State



Mickey Wilson, CPA
Director
February 11, 2003